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Attorney's Docket 008312-0281351  
Client Reference: T4TY-01S0006-1**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re PATENT APPLICATION of:  
MINORU YONEZAWA ET AL

Confirmation No: 1821


Application No.: 09/873,408

Group Art Unit: 2653

Filed: June 5, 2001

Examiner: B. VUONG

Title: OPTICAL DISK APPARATUS AND METHOD OF ADJUSTING THE SAME

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**CERTIFICATION OF FACSIMILE TRANSMISSION  
UNDER 37 C.F.R. §1.8**I hereby certify that the following papers are being facsimile  
transmitted to the Patent and Trademark Office at (703) 872-9306 on the date  
shown below:**Response to Election of Species Requirement**PILLSBURY WINTHROP  
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(Certification of Facsimile Transmission—page 1)

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RESPONSE TO ELECTION OF SPECIES REQUIREMENT

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Alexandria, VA 22314

Sir:

In response to the Election of Species Requirement dated April 5, 2005, Applicants hereby elect with traverse Species I (Figs. 1-3, 5 and 6) for further prosecution. Applicants note that Figs. 4a and 4b are labeled as prior art. Accordingly, Species I should contain Figs. 1-3, 5 and 6. It is respectfully submitted that claims 1, 2, 5, 13-15, 18, 21, and 24-27 read on the elected Species I (Figs. 1-3, 5 and 6). Furthermore, at least claims 13 and 24 are generic to all species.

Applicants respectfully submit that the subject matter of all of the species identified by the Examiner (Species I - VII) is sufficiently related that a thorough search and examination for the subject matter of any one species would necessarily encompass the search and examination of the remaining species. The application can thus be searched and examined without serious burden. MPEP § 803 sets forth the criteria for a proper requirement for restriction: (A) the inventions must be independent or distinct as claimed; and (B) there must be a serious burden on the examiner. As also stated in MPEP § 803, "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." (Emphasis added.) As discussed above, MPEP § 802.02 defines restriction as both restriction between distinct inventions and election of species


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requirements, it is clear that the requirement of a serious burden equally applies to election of species requirements. Applicants submit that a serious burden does not exist in the present application at least with respect to the species, set forth in the remaining figures. Applicants respectfully submit that all species should be examined at this time to avoid duplicative examination by the Patent Office and unnecessary expense to Applicants. Therefore, reconsideration and withdrawal of the Election of Species Requirement are respectfully requested. A prompt and favorable examination on the merits is respectfully requested.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,  
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